

UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA

* * *

UNITED STATES OF AMERICA,

Case No. 3:19-cr-00038-MMD-CLB

Plaintiff,

ORDER

v.

EDWARD MONET KNIGHT,

Defendant.

I. INTRODUCTION

Defendant Edward Monet Knight was indicted on two counts of Interference with Commerce by Robbery pursuant to 18 U.S.C. § 1951, and two counts of Use of a Firearm During and in Relation to a Crime of Violence pursuant to 18 U.S.C. § 924(c)(1)(A)(ii). (ECF No. 14.) Before the Court is Knight's motion to compel grand jury transcript pertaining to identity. (ECF No. 92 (the "Motion").) Because Knight demonstrates "particularized need," and as further explained below, the Court will grant his Motion.

II. DISCUSSION

While Federal Rule of Criminal Procedure 6(e) protects the secrecy of grand jury proceedings, it also provides exceptions. Knight asks the Court to apply the exception under Rule 6(e)(3)(E)(i) and (ii), which gives the Court authority to authorize disclosures "preliminarily to or in connection with a judicial proceeding," or "at the request of a defendant who shows that a ground may exist to dismiss the indictment because of a matter that occurred before the grand jury." (ECF No. 92 at 4.) Disclosure of grand jury proceedings is "appropriate only in those cases where the need for [the materials] outweighs the public interest in secrecy." *Douglas Oil Co. of California v. Petrol Stops Northwest*, 441 U.S. 211, 223 (1979). Furthermore, "the burden of demonstrating this balance rests upon the private party seeking disclosure." *Id.* "Moreover, the Court

1 required that the showing of need for the transcripts be made ‘with particularity’ so that
2 ‘the secrecy of the proceedings may be lifted discretely and limitedly.’ *Id.* at
3 221 (quoting *United States v. Proctor & Gamble Co.*, 356 U.S. 677, 683 (1958)).

4 Knight argues that the need for secrecy is minimal because the grand jury has
5 concluded its activities and thus, interest in continued secrecy is reduced. (ECF No. 92
6 at 6.) The government does not contest secrecy.

7 With minimal need for secrecy, Knight argues that he has demonstrated a
8 “particularized need” for the requested grand jury transcript. Under 6(e)(3)(E) (ii) the Court
9 may authorize disclosure “at the request of a defendant who shows that a ground may
10 exist to dismiss the indictment because of a matter that occurred before the grand jury.”
11 Here, Knight argues that because probable cause depends exclusively upon Detective
12 Edward Wilson’s speculative identification testimony, each count is vulnerable to
13 dismissal and the grand jury testimony pertaining to identity must be produced. (*Id.* at 4.)
14 Specifically, because Detective Wilson lacks personal knowledge, as the Court previously
15 found (ECF No. 57 at 3-4), any identification testimony is speculative and therefore not
16 competent evidence. (ECF No. 92 at 4.) In short, Knight argues that without any
17 competent witness identification, the grand jury was not provided with the evidence
18 needed to support probable cause. (*Id.*) Therefore, grounds for dismissal may exist. (*Id.*
19 at 6 (citing *United States v. Costello*, 221 F.2d 668, 677 (2d Cir. 1955) *aff’d*, 350 U.S. 359
20 (1956)).)

21 The government argues in response that there is compelling circumstantial
22 evidence of defendant’s identification¹ and Knight has not demonstrated a “particularized
23 need” because Detective Wilson never offered his lay opinion as to the identification of
24 Knight.² (ECF No. 98 at 2-3.)

25 ¹Again, the government asserts that circumstantial evidence of identity was
26 presented to the grand jury to support its finding of probable cause. (ECF No. 98 at 3.)
27 The Court did not review such evidence nor did the government offer to submit such
evidence in connection with its response to the Motion.

28 ²The government’s response brief states: “The defendant seeks production of the
grand jury transcript based upon the incorrect assumption that the sole evidence of the

1 Having reviewed the grand jury testimony of Detective Wilson, the Court disagrees
 2 with the government's assertions. Detective Wilson did offer his lay opinion as to the
 3 identification of Knight.³ Thus, the Court finds that Knight has demonstrated a
 4 "particularized need" that outweighs any continued need for secrecy, and will therefore
 5 grant the Motion.

6 **III. CONCLUSION**

7 It is therefore ordered that Knight's motion to compel production of grand jury
 8 transcript (ECF No. 92) is granted. In particular, the Court grants Knight's request for
 9 "those portions of the grand jury transcript that pertains to identity." (*Id.* at 7.) The
 10 government must disclose the relevant portions of the grand jury transcript to Knight
 11 within seven days and file the same with the Court, along with a certificate of compliance
 12 with this order.

13 DATED THIS 13th Day of January 2021.

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 17 MIRANDA M. DU
 18 CHIEF UNITED STATES DISTRICT JUDGE
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 24 defendant's identification as the robber introduced during the grand jury presentation was
 25 Detective Wilson's identification of the defendant as the robber in the surveillance videos
 26 of the robberies. No such evidence was presented in the grand jury." (ECF No. 98 at 2-
 27 3.)

28 ³In fact, Detective Wilson was asked to describe Knight (which he did) and whether
 Knight matched the description of the robber involved in the robbery at the two locations
 identified in the indictment (which he affirmed). Transcript of the Grand Jury Testimony of
 Detective Edward Wilson in the District of Nevada on Aug. 1, 2019, at 15:3-9 (hand-
 delivered to the Court for *in camera* review).